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To: Microsoft ATR
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Subject: Microsoft Settlement

Greetings:

I am opposed to the current draft of the settlement with Microsoft because it in no way addresses the predatory monopolistic practices of the company. In fact, the settlement, by not punishing Microsoft, gives a seal of approval for these practices.

That being said, specific provisions of the settlement need to be revised. In summary:

1. Those organizations that MUST be allowed access to resources MUST include bona fide development organizations, such as those organizations that are developing Apache, Samba, etc.
2. The 3-person panel empowered to monitor Microsoft MUST have the final determination of what entities are allowed access.

In a little more detail:

1. Microsoft is correct when it states that the standards of anti-trust review are different for the computer industry than for industrial industries. Most of the true innovations in computers have come from outside of the commercial sphere. To limit the judgement to the commercial sphere ignores a major sector over which Microsoft uses its monopolistic powers and ignores a significant sphere of competition to Microsoft.

The obvious current competitor base is the open-source linux community. However, the limiting of compliance to only commercial also closes the door to future initiatives, which would could be crippling to our economic progress.

The intent is not to make Microsoft respond to every Tom, Dick, and Harry. The intent is to empower those innovative organizations that have a legitimate and compelling need to the details of the Microsoft code.

2. Microsoft has been rightly judged to have used predatory practices. As the settlement is currently written, Microsoft is the final arbiter of the standards for certifying the authenticity and viability of a competitor's business. This only keeps the door open for further abuse by Microsoft because there is no third-party oversight. If there is no oversight, then there is no remedy. Coloquially, the fox still guards the chicken house.

The 3-person panel must have the power to make final determination of these issues, and the panel must be presumed to be acting properly. That means that if Microsoft disagrees with a determination, then (a) Microsoft must bear the burden of proof and (b) must comply pending a ruling to the contrary.

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